

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 L-03 INRE-00 SSO-00

/026 W

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O R 251330Z AUG 75

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC IMMEDIATE 1110

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

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C O R R E C T E D C O P Y (GARBLED TEXT)

E. O. 11652: N/A

TAGS: EAIR, BR

SUBJECT: CIVAIR: CONGONHAS PROBLEM - VARIG SCHEDULE FILING

REFS: A. STATE 197407; B. STATE 193474; C. BRASILIA 7370

1. ADCM AFTERNOON, AUGUST 22, CALLED ON AMBASSADOR CABRAL DE MELLO (CHIEF, ECONOMIC DEPARTMENT) TO REVIEW STATUS OF AVIATION PROBLEM AND MAKE POINTS REFTELS A AND B. ADCM ALSO NOTED EMBASSY UNDERSTANDING, PURSUANT REFTEL C, THAT CERNAI HAD INSTRUCTED VARIG TO COMPLY WITH CAB FILING REQUIREMENT AND GAVE ASSURANCES PURSUANT REFTEL A PARA 1, THAT NO STEPS TO DISAPPROVE ANY OF VARIG'S CURRENTLY OPERATED SCHEDULES WOULD BE CONSIDERED PENDING OUTCOME OF BILATERAL CONSULTATIONS. TO ENSURE THERE WOULD BE NO MISUNDERSTANDING, ADCM SUBMITTED BRIEF TALKING PAPER, EXPRESSED PLEASURE WITH CERNAI'S DECISION AND MINDFUL OF PREVIOUS CERNAI REVERSALS, EXPRESSED HOPE THAT DECISION WOULD STAND AND BE IMPLEMENTED PROMPTLY.

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2. CABRAL DE MELLO (WHO WAS UNACCOMPANIED) NOTED ADCM'S

POINTS, BUT, EVIDENTLY NOT BRIEFED ON THE ISSUE, OFFERED NO SUBSTANTIVE COMMENT. SOME TIME AFTER APPOINTMENT, HOWEVER, EMB OFF RECEIVED TELEPHONE CALL FROM ANTONIO ROCHA, SUB-CHIEF OF FOREIGN MINISTRY'S TRANSPORTATION DIVISION AND PRINCIPAL STAFFER ON AVIATION MATTERS. EMB OFF PROMPTLY REPORTED HIS TELEPHONE CONVERSATION, AND ADCM AND EMB OFF, IN A SECOND TELEPHONE CALL WITH ROCHA, COVERED SAME GROUND AGAIN.

3. IN ESSENCE, ROCAH SAID, CONTRARY TO EMASSY'S UNDERSTANDING, CERNAI'S POSITION REMAINED UNCHANGED. CERNAI HAD INSTRUCTED VARIG TO REPLY TO CAB'S AUGUST 12 LETTER, BUT NOT REPEAT NOT TO COMPLY WITH CAB'S DEMAND THAT IT FILE ITS SCHEDULE UNDER SECTION 213. BRASILIAN AMBASSADOR HAD CALLED ON DEPARTMENT "TWO DAYS AGO" TO REVIEW HISTORY OF PROBLEM AND REQUEST THAT USG SUSPEND ALL FURTHER ACTION ON ISSUE PENDING RESULTS OF AGREED CONSULTATIONS.

4. ROCHA SAID CATEGORICALLY THAT IN GOB'S VIEW BILATERAL DOES NOT REQUIRE AIRLINES TO FILE THEIR SCHEDULES AND THAT, SINCE VARIG DID NOT DESIRE A CHANGE IT WAS NOT REQUIRED TO DO SO. GOB HAD NEVER REQUIRED US CARRIERS TO FILE THEIR SCHEDULES. FILING OF CHANGES IN SCHEDULE NOT INVOLVING A CHANGE IN CAPACITY WAS EXPLICITLY NOT DEEMED NECESSARY BY THE US (DECEMBER 1, 1958), WHILE THOSE INVOLVING CHANGES IN CAPACITY WERE TO BE HANDLED THROUGH DIPLOMATIC CHANNELS (NOVEMBER 10, 1968). IF USG IN FUTURE WISHED TO INSTITUTE FILING REQUIREMENT FOR CHANGE IN SCHEDULE NOT INVOLVING INCREASE IN CAPACITY, GOB WAS

PREPARED TO DO SO, FOR INFORMATION PURPOSES, AFTER FORTHCOMING CONSULTATION, TO WHICH BOTH GOVERNMENTS HAD AGREED, AND WHICH COULD BE HELD ANY TIME BEGINNING OCTOBER 1.

5. ADCM SAID THAT US LEGAL POSITION WAS CAREFULLY RESEARCHED AND URGED THAT CERNAI EXAMINE CAREFULLY DOCUMENTATION CITED STATE'S 199577.

6. ROCHA ALSO CLAIMED THAT WHILE CERNAI WAS IN SESSION LIMITED OFFICIAL USE

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DISCUSSING THIS MATTER PANAM REPRESENTATIVE RAUSCHENBLATT HAD TELEPHONE EDIVIO TO SAY:

A. PANAM HAD APPROACHED DEPARTMENT AND CAB TO URGE "THE DIPLOMATS TO COOL IT".

B. PANAM WAS WILLING TO LIVE WITH THE CHARTER ARRANGEMENT (IN THE FIRST CONVERSATION ROCHA USED THE PHRASE "WOULD BE HAPPY WITH") AND WAS WILLING TO SEE HOW IT WORKED.

C. "HIGH PRICES" ON CHARTERS ALSO WAS NOT REALLY AN ISSUE.

7. COMMENT: CONGEN RIO OFFICER DOES NOT BELIEVE THERE COULD HAVE BEEN MISUNDERSTANDING ON WHAT EDIVIO SAID TO HIM ON AUGUST 20. OTHER CONGEN OFFICER WAS PRESENT WHEN HE MADE TELEPHONE CALL, AND CONVERSATION WAS CONDUCTED IN ENGLISH, OF WHICH EDIVIO HAS EXCELLENT COMMAND. EMB REQUESTS DEPT. FURNISH ACCOUNT OF ARAUJO CASTRO-UNDER SECRETARY CONVERSATION, INCLUDING DATE AND TIME MEETING WAS REQUESTED AND HELD.

8. ON AUGUST 25, AMCONGEN OFFICER IN RIO CONTACTED VARIG'S JOAO ANDRADE, ASSISTANT TO PRESIDENT FOR FOREIGN RELATIONS. ANDRADE CONFIRMED THAT THEY HAD RECEIVED INSTRUCTIONS TO FILE WITH THE CAB ONLY IF THE REQUEST WAS MADE UNDER THE BILATERAL, I.E. FILING FOR INFORMATION PURPOSES, AND NOT REPEAT NOT UNDER SECTION 213. VARIG'S LETTER TO CAB IS BASED ON DECEMBER 10, 1968, EXCHANGE OF NOTES, ANNEX B. CRIMMINS

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